UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1082*
14 November 1991

Original: ENGLISH

HUMAN RIGHTS COMMITTEE

Forty-second session

SUMMARY RECORD OF THE 1082nd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 19 July 1991, at 3 p.m.

Chairman: Mr. POCAR

CONTENTS

Consideration of reports submitted by States parties under article 40 of the Covenant (continued)

Third periodic report of Iraq (continued)

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

* Reissued for technical reasons.

GE.91-18371/3880B

The meeting was called to order at 3.10 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Iraq (CCPR/C/64/Add.6) (continued)

1. The CHAIRMAN invited the delegation of Iraq to continue its replies to the questions raised by members of the Committee under sections II and III of the list of issues.

2. Mr. MAHMOOD (Iraq) said that it was virtually impossible to estimate the total number of cases of torture, because only those investigated and brought before the courts were officially registered. Victims were certainly entitled to moral and material compensation, as stated in paragraph 31 of the report. They could apply to correctional courts for compensation or alternatively bring a civil action for compensation against the individual concerned. Any person in possession of information on cases of torture could bring it to the attention of the Public Prosecutor and criminal proceedings would be instituted. Many such actions had been brought. In reply to a further question, he said that torture victims could claim compensation from the State if there was evidence, for example, that a police officer had inflicted torture. His delegation had presented information on a number of cases in which compensation had been paid, but unfortunately it was only available in Arabic. In any case they represented only a few typical examples of a larger number of cases. One of those was of particular significance, namely that of an interrogator who had been convicted of inflicting torture and had appealed against his sentence, with the result that it had in fact been increased by the Appeal Court. Guidelines on the procedure to be followed in cases of torture were contained in articles 332 and 333 of the Penal Code, and campaigns and programmes to combat torture were under study. One questioner had asked whether the names of persons convicted of torture would be made available to international organizations. He was not aware of any such request having been addressed to the competent authorities, but it was normal Iraqi practice to comply with any such requests that might be made. The question had also been asked whether wrongfully imprisoned persons were eligible for compensation. There were in fact legal provisions under which an application could be made to the courts for compensation.

3. Another question had concerned the severity with which civil disturbances had been put down by the Iraqi authorities and the suggestion made that excessive force had been used. He felt bound to make it clear that those disturbances had not been free expressions of democratic opinion. They had been organized and executed by armed groups carrying sophisticated weaponry, which had looted private property and carried out wanton destruction.

4. In reply to a question on the large number of amnesties announced recently, he said that each decision on amnesty was based on a careful examination of the relevant facts. A wide range of ordinary offences had, however, been expressly excluded from the scope of the amnesty. Although the State was entitled to grant an amnesty in respect of certain crimes of violence, no national authority could lightly forgive crimes against individuals.

5. One member of the Committee had asked whether official instructions and guidelines had been issued to the police and prison services in regard to arrests and detentions. Clear instructions had in fact been issued and a close watch was kept on compliance. It was perhaps significant that the authority responsible for prisons was not in fact the Ministry of the Interior, but the Ministry of Labour and Social Affairs. Qualified experts and lawyers were employed to ensure that standards were maintained. The Minister of Public Health had recently visited prisoners in hospital, to ensure that they were receiving proper treatment.

6. In regard to section III of the list of issues concerning liberty and security of the person under article 9 of the Covenant, information had been requested in regard to the number of arrests and the number of persons in administrative detention and it had been asked whether there was in fact any legal basis for administrative detention in Iraq. The competent authority for administrative detention was the Ministry of the Interior. The procedure was applicable only under certain circumstances as a precautionary measure where it was suspected that crimes against society were liable to be committed. A question had also been put concerning the house arrest of a religious figure, but the questioner himself had admitted that the situation was not entirely clear.

7. Another comment had stressed the importance of responding to requests for information from international organizations, a view to which he himself most certainly subscribed. He was not aware of many such requests having been received, but he always insisted that requests from governmental and non-governmental bodies should be given priority. One request which had been received was from Amnesty International. A reply would be sent as soon as the relevant material had been collected and examined.

8. Reference had been made to a report indicating that a number of persons entering the country after the cease-fire had been attacked by Iraqi aircraft. Since the cessation of hostilities in the Gulf War, not even civilian aircraft had been allowed to overfly Iraqi territory. The Government was now making great efforts to induce all exiles to return to their homeland.

9. The Committee might be interested to hear a brief summary of the Public Prosecutor system which was a special feature of Iraqi criminal law. The Iraqi system of law differed of course from the European system, which relied very much on the services of an investigating magistrate, and, although influenced initially by English common law, it was not per se an adversarial system; during the course of evolution it had taken on certain specific features of its own. The Public Prosecutor and his staff were not responsible for investigating crimes. On the contrary, they maintained a neutral attitude in regard to the investigations, merely verifying that procedures were carried out correctly. They confined themselves in fact to their legal functions before the courts, under appropriate circumstances even representing a defendant and ensuring his release. He hoped that he might have been able to dispel some misunderstandings in the minds of Committee members in regard to the functions of the Public Prosecutor in Iraq.

IV. Rights of persons belonging to minorities (article 27)

(a) How many Kurds had fled the country and how many have returned to Iraq as a result of agreements sponsored by the United Nations and its agencies? (See para. 90 of the report.)

(b) Please provide additional information on the status and functions of the Legislative Council of the Autonomous Region of Kurdistan and on the relationship between that institution and the National Assembly.

(c) Please provide information concerning ethnic or religious minorities in Iraq and regarding the "positive measures", mentioned in paragraph 76 of the report, taken to enable minorities to exercise their rights without discrimination. Are these minorities represented in the National Assembly and local governing bodies?

10. Mr. MAHMOOD (Iraq) said, with regard to question (a), that his delegation had no precise information on the number of Kurds who had left or returned to the country. According to information from the Office of the United Nations High Commissioner for Refugees (UNHCR), most of those who had left the country had now returned and the number of returnees was increasing daily.

11. With respect to subsection (b), after recalling that the second periodic report of Iraq had reviewed provisions regulating the Legislative Council, he said that the Council exercised its powers in accordance with the Autonomous Region Act and Act No. 56 of 1980. Those powers included legislative decision-making. The relationship between the Legislative Council and the National Assembly was not one of dependence. Each body had its own membership and powers and neither interfered with the other. The Council was concerned with local matters, while the National Assembly dealt with legislation covering all regions. Representatives of Iraqi Kurds from the Autonomous Region were included as Iraqi citizens in the National Assembly.

12. Referring to subsection (c), he said that the positive measures in question were aimed at ensuring that persons belonging to minorities exercised the right to enjoy their own culture, to profess and practise their own religion, or to use their own language. In that connection, in accordance with article 18 of the Covenant, his country continued to look after the welfare of religious communities and to give them material and moral support.

13. The State supported the right of persons belonging to minorities to enjoy their own culture by publishing books and broadcasting on radio and television in the local language. The Kurdish language was the official language in the Autonomous Region of Kurdistan.

14. With regard to the representation of minorities in the National Assembly, he said that the electoral system was based on the equality of all citizens. They had the right to stand as candidates in national elections. No seats in the National Assembly were reserved for any particular minority and its membership included citizens belonging to all minorities.

15. Mr. SADI said he would welcome clarification on whether the Kurds in Iraq were regarded as a minority or a distinct people. He would like to know the extent to which they were allowed to enjoy their own culture and to use their own language and also how the status of Iraqi Kurds compared with the situation of Kurds in other countries.

16. The leadership of the Kurdish people seemed to be traditional. He asked whether any attempt had been made to enable the Kurdish people to elect leaders on a more contemporary basis or whether they preferred to retain traditional methods.

17. Mr. HERNDL said that he would welcome some additional information concerning article 27 of the Covenant. Referring to paragraph 79 of the report, he said that, under article 27, minorities had the right to enjoy their own culture, religion and language. The report under consideration recognized that fact in paragraph 76 and referred to "positive measures".

18. During the Committee's consideration of the second periodic report of Iraq, the representative of Iraq had agreed that legal provisions alone were not sufficient to guarantee the rights and protection of minorities. He himself fully shared that view and would therefore like to know whether the Autonomous Region of Kurdistan had proved workable, particularly in view of the fact that in 1987 serious incidents had taken place involving the Kurdish area, which had led to the use of force by the Government against the Kurdish minority, and in view of the current mass exodus of Kurds from Iraq.

19. With regard to paragraph 91, he said that the Committee had been promised further details on the dialogue between the Iraqi political leadership and a delegation of Kurdish parties. That dialogue had not been successful and a new dialogue had been established. He would like to know whether the Government had taken any new measures.

20. Referring to the last sentence of paragraph 84 (a) of the report, he said that the qualification in question constituted a serious restriction on the right to freedom of movement which might not be consistent with article 12 of the Covenant.

21. Mr. NDIAYE, noting that, according to article 4 of the Constitution of Iraq, Islam was the religion of the State, asked what were the practical effects of that provision on the rights of minorities in Iraq. He wondered whether it meant that certain individuals belonging to religious minorities could not compete with others belonging to the Muslim religion in running for office in State institutions.

22. Observing that under article 5 (b) of the Constitution, the Iraqi people was composed of two main ethnic groups, including the Kurdish ethnic group, he said that the Kurds had national rights which were recognized. He wondered whether that recognition of the Kurdish people's rights could go so far as to include their right to self-determination. If not, he would like to know what was the practical effect of the rights accorded to them.

23. He would also welcome information on the legitimate rights of other minority groups. In that connection, he noted that the examples given in paragraph 61 (d) of the report related mainly to the Catholic Church and wondered whether that meant that, although Catholicism was not the State religion, the Catholic Church was given preferential treatment by the Iraqi State.

24. Mrs. HIGGINS drew attention to reports on French television concerning the spraying of sulphuric acid on Shiite Muslims, including women and children, at the end of the Gulf War. She would like to know whether the Shiites currently in the marshes were still being subjected to shelling and whether floating bases on mud flats and reed platforms were being used to stop them from leaving the marshes. She would also welcome information concerning attempts to prevent food from reaching the Shiites in the marshes. Her information came from the world press, UNHCR and aid workers. She would like to know whether a United Nations presence would be accepted in the marshes and whether Amnesty International would be allowed into the south of the country.

25. Mr. WENNERGREN said that he would welcome additional information concerning the Autonomous Region of Kurdistan. The second periodic report of Iraq had referred to the establishment of the Legislative Council and had said that any duly elected citizen could become a member of that institution.

26. Noting that the Executive Council had been established by presidential decree No. 473 of 1989, he asked how many of its members were Kurds and how many belonged to other groups. He would also welcome information on the extent to which the Council was independent and governed the Autonomous Region.

27. Mr. MYULLERSON noted the statement in paragraph 79 of the report that "there must be no interference in internal affairs". That was a principle of international law, but since human rights and questions concerning minorities had become matters dealt with by international treaties, they were not internal affairs of any State, especially if the State was a party to the Covenant.

28. He would welcome further information concerning the negotiations that were taking place between the Government and Kurdish leaders.

29. Miss CHANET said that she, too, would welcome information on the status of the negotiations in question.

30. She noted that some 1.5 million people had left Iraq since 1980 and that the majority seemed to belong to Kurdish, Shiite and Assyrian minorities. In those circumstances, she wondered whether their fundamental rights had been protected in accordance with article 27 of the Covenant. She would therefore welcome information concerning the "positive measures" referred to in paragraph 76 of the report. She also inquired about the situation of holy places in the towns that had been subjected to heavy bombardment.

31. Mr. MAHMOOD (Iraq), replying to the questions raised by Mr. Sadi, said that the Kurds were considered not as a minority but as a people alongside the fraternal Arab people of Iraq; indeed, article 5 of the Constitution stated that the Iraqi people was composed of two main national groups - Arab and Kurdish. The Constitution also recognized the national rights of the Kurdish

people and the legitimate rights of all minorities. The Kurds were, therefore, from that point of view regarded as being on an equal footing with the Arab population. For that reason, the Kurds, as part of their own national identity, had been given regional and local powers and had autonomy in the Autonomous Region in which they lived. Furthermore, concerning the extent to which Kurds were able to enjoy their culture it should be noted that, their identity having been recognized, they appointed councils which exercised authority on their behalf. The Kurdish language was an official language, used by the administrative authorities in schools in the Autonomous Region. A number of newspapers, including one published in Baghdad, were printed in Kurdish. The Autonomous Region also had a major university - the Salahuddin University. The situation of the Kurds in Iraq in that respect should be compared to that of the Kurds in neighbouring States, bearing in mind that some Kurds outside Iraq were not even allowed to use their own language.

32. As to the leadership of the Kurdish people, there were no elections to appoint leaders and such appointments were left in the hands of the Kurds themselves, who made them in accordance with their conventions and traditions. The members of the Executive and Legislative Councils were elected by free, democratic and secret ballot, and elections were the subject of interest and scrutiny by journalists and others.

33. Concerning the discussions in which Kurdish authorities were participating in Baghdad, the atmosphere was good and the parties felt that negotiations were proceeding well and would arrive at a successful conclusion.

34. On the activities of the Legislative and Executive Councils, he urged those who were interested in finding out more about the situation to go to Iraq to see it for themselves; Iraq's border was open to journalists and others, who could enter the country at any time, and there was no difficulty in visiting the Autonomous Region. The Councils were active bodies, bearing in mind that the experience of autonomy in Iraq was recent and unique and needed to be continued and strengthened over time. No such structure existed for Kurds in other countries. The Kurdish people in Iraq were thus electing their own representatives to the Councils, whose smooth functioning demonstrated that the Law on Autonomy was being applied. Negotiations between the Iraqi Government and Kurdish representatives were currently under way in order to strengthen the experience in autonomy and appeared to be nearing completion.

35. Concerning article 4 of the Constitution defining Islam as the State religion, the Constitution was to be regarded as a whole and article 4 should be read in conjunction with article 19, which enshrined the principle of non-discrimination, inter alia, on religious grounds. There was therefore no distinction between Muslim and non-Muslim Iraqi citizens. A number of leading figures in Iraq, including the Vice-President, the Prime Minister and the Vice-President of the National Assembly, were Christians. If the question had not been put, he would never have thought of referring to the religion of those in authority in his country as it was not an issue. He invited another member of the Iraqi delegation to comment further on the matter.

36. Mr. YOUSSIF (Iraq) said that he was almost embarrassed to have to take the floor on such a matter as he had never expected to have to speak as a Christian; he and his fellow delegates represented Iraq from north to south and in all parts, irrespective of religion. In reply to Mr. Ndiaye, while Islam was the State religion of Iraq, it was considered in his country as a religion which had accepted religious pluralism and which was complementary to other religions. On the question of assistance to Catholics, he said that assistance to minorities was given without distinction. The Iraqi population was a mosaic of peoples which had become integrated in the course of history; should Iraqi law cease to be based on religious unity, fragmentation of the country would inevitably ensue. Moreover, issues regarding minorities should not be used as a pretext for interfering in internal affairs in a manner unconnected with a State's obligation to guarantee human rights.

37. The CHAIRMAN thanked the delegation of Iraq for its cooperation. Noting that there would not be enough time to complete consideration of the third periodic report at the current session, he said that the outstanding sections would be considered at a later date.

38. Mr. AGUILAR URBINA expressed his disappointment at the lack of any real dialogue so far between the Committee and the delegation of Iraq and at the absence of replies to his own questions. Like Mr. Prado Vallejo, he had been and continued to be highly critical of events in Iraq following 2 August 1990, including the setting of 15 January as the deadline for a peaceful settlement and the use of excessive force. He had, moreover, been critical of the media coverage of events there. Following a technically excellent third periodic report from Iraq, however, he was disillusioned because, although it should have covered the period from 1 January 1986, what had happened before the Gulf crisis had been treated as prehistory and had not been reported on.

39. As Mr. Ando had said, the Committee must assume its responsibilities and examine that situation in accordance with its mandate. On the matter of lifting sanctions, it was not sufficient for Iraq to accept the relevant Security Council resolutions, of which he himself was critical; it should also implement the relevant measures. There had been no mention of the question of allowing a United Nations mission to investigate nuclear installations in Iraq. Moreover, the report blamed the Gulf War for the situation as a whole but failed to mention the events leading up to the War and the imposition of sanctions or to say why there had subsequently been uprisings or who was responsible for them.

40. He remained firmly convinced of the need for sincere, frank dialogue and hoped that, when consideration of Iraq's third periodic report was resumed, it would be possible to have answers to the Committee's questions and doubts in the interests of contributing something towards the rebuilding of the country, which was a responsiblity of the international community.

41. He was surprised by the Iraqi delegation's claim that the question of disappearances, deaths and torture had never been raised until the matter had been brought up in the Committee: in fact, correspondence had been exchanged through the Chairman in that respect and it would seem that, in such cases, serious rumours and reports must be investigated.

42. Referring to paragraph 27 of the report concerning the death of thousands of children as a result of inadequate food and medicine, he said that it should be borne in mind that the situation was not due solely to sanctions: there had been excessive expenditure in Iraq in areas unconnected with the welfare of the population, and military spending in 1986 had been 600 per cent greater than that for health and education.

43. Mr. PRADO VALLEJO said that Iraq was situated in a region of ancient culture from which the origins of mankind had sprung and which had therefore inspired his admiration. Unfortunately, tragic events had taken place; there had been an act of aggression on the part of Iraq against its neighbour and an excessive use of multinational force. It was now time to bring an end to the blockade preventing the entry of food and medicine into Iraq, as the suffering of the people was evident.

44. He had hoped that it would have been possible to have a constructive dialogue; unfortunately, however, there had been a kind of monologue, with the delegation of Iraq repeating what was contained in the third periodic report without replying to the points raised by the members of the Committee. He therefore continued to feel serious concern.

45. It had been stated in the report and by the delegation of Iraq that full responsibility for the situation lay with the Gulf War. That was not so; the international coalition was not responsible for the violations of human rights in Iraq, nor had it provoked the war. The coalition had gone to the defence of Kuwait, of a country and people whose right to self-determination had been violated. Human rights violations had existed in Iraq prior to the Gulf War and summary executions and arbitrary detentions had taken place before as well as after 2 August 1990, although it was true that the situation had been aggravated by the war. Unfortunately the Government of Iraq had not taken steps to investigate such violations or to punish those responsible for them. Serious infringements of human rights had also occurred during the occupation of Kuwait and, again, there had been no investigations. The Kurds had been subjected to persecution, which the report attempted to justify by mentioning sedition. Again, there had been no investigation. In addition, he had specifically asked whether the right to dissent existed in Iraq. There had been no answer to any of the questions he had raised on any of those matters.

46. It had none the less been established that criticism of the Government could lead to the death penalty - a matter for serious concern. His questions about the existence of political detainees had not been answered, although it was evident that widespread repression had existed and continued to exist, without effective guarantees or remedies for victims, in contradiction to the terms of the Covenant. Apparently, human rights violators were also to benefit from a future amnesty - a step which was unacceptable in the light of the obligations arising from the Covenant. Moreover, organizations such as the International Committee of the Red Cross which were endeavouring to assist the Iraqi people had not so far been allowed to carry out their activities; it was to be hoped that they might be permitted to do so in the future. Yet another area for concern was the existence of the death sentence without any possibility of appeal, in contravention of article 6 of the Covenant. He hoped that the delegation of Iraq would convey those and other concerns of the Committee to its Government so as to rectify procedures and ensure that in the

future domestic legislation would be more in harmony with obligations under the Covenant. He hoped that the situation of the people of Iraq would improve, that the country would be rebuilt, that there would be a prompt and effective process of democratization, and that the energy and resources of the country would be directed towards the latter and not towards rearmament.

47. Mr. FODOR said that, with the completion of the dialogue between the Committee and the representatives of the State party, the questions which inevitably arose were whether, in the course of the five-year period covered by the report, the State party had complied with its international obligations, whether the rights enshrined in the Covenant had been adequately protected and whether the provisions of the Covenant had been properly implemented in Iraq. The only possible answer to those questions was, "No".

48. The rights embodied in the Covenant were closely interrelated. The right to life was of paramount importance and had been so frequently and grossly violated in Iraq as to render effective implementation of the Covenant impossible. As a result of the information provided by the mass media and other sources, the long list of violations had become only too well known to the whole community of nations. Furthermore, the questions asked and comments made by members of the Committee, with which he associated himself, had properly demonstrated the Committee's most serious concerns. Neither the report of the State party nor the statements of the delegation had succeeded in alleviating those concerns or in refuting the allegations made. Given the excessive number of violations committed, he would prefer, instead of evaluating the past period, to concentrate on the present and near future, unorthodox though that might be.

49. One ray of hope for the future might be the intention of the Iraqi Government to establish democracy, a multi-party system, freedom of association, freedom of the press and the rule of law, as stated in the report, and to cooperate with the international organizations, as the head of delegation had indicated in his oral statement. Under normal circumstances, the statement of such intentions would be received with great satisfaction. However, past experience showed that it should be treated with caution, and that any immediate assessment in that regard would be premature. Lost confidence could be restored only by adequate evidence of the actual situation, not by promises. The crucial question was whether the Government was sincere in its intentions or whether it was endeavouring to mislead world opinion in order to free itself from its isolation.

50. When he had first taken the floor during the Committee's consideration of the State party's report, he had voiced expectations that the dialogue with the State party would be useful. He was not in a position to say whether that had actually been the case. A proper assessment depended on factors beyond the Committee's control, such as whether the Committee's concerns had been duly noted by the delegation and, if so, whether they would be properly conveyed to the competent Iraqi authorities, and whether those authorities would be willing to take the Committee's concerns into account.

51. He expressed the sincere hope that the era of great suffering of the peoples living in the territory of Iraq was close to an end and that a new policy would open the way for protection of human rights.

52. Mrs. HIGGINS acknowledged the effort that had gone into the preparation of the third periodic report of Iraq, and said that the presence of the country's representatives had been welcome. Nevertheless, for a number of reasons, the encounter had amounted to something less than dialogue.

53. First, the report itself was largely an attempt by the Government to present its views on the Gulf crisis and its aftermath; the real issue, namely compliance with the Covenant, had been avoided. Second, that avoidance had been coupled with an obvious policy decision to refuse to address any human rights violations or issues subsequent to 2 August 1990: it was as though the reporting period - and the relevance of the Covenant - had magically ended the day before. The reason given for that attitude, namely that the Security Council had concerned itself with later events, and that they were consequently of no concern to the Human Rights Committee, was both legally indefensible and politically misjudged. Third, the claim had been made that insufficient notice had been given of other questions. That was manifestly untrue; for example, the request for information concerning the number of executions for capital offences and the nature of those offences had been before the Iraqi Government for the past four years. Fourth, a number of other questions outside the self-selected categories for non-reply had also remained unanswered: her own inquiry with regard to the fate of the Shiites was one of them: to treat people as though they simply did not exist was intolerable. Fifth, repressive action against the Kurds and the Shiites had been explained in a context of "riots". Everyone would, of course, make his own assessment of the causes of the violence that had undoubtedly occurred: in any event, such circumstances called for both a measured response, and for prohibited targets; but a wealth of concordant information indicated that the targeting had in fact been massive and the damage indiscriminate. Lastly, even such answers as had been provided had often been unsatisfactory.

54. Bearing all those considerations in mind, she felt that, although the Iraqi delegation might congratulate itself on succeeding in its pre-established plan of evading dialogue on certain topics, the world community at large was unlikely to have been impressed. That, however, was a matter of less import to her than the issue of the Iraqi people and their rights under the Covenant. Her overall impression was that a situation which had already been very disturbing in 1987 had persisted and worsened throughout the intervening reporting period: she believed that there had been torture; that there had been no security of the person or indeed of large segments of the population; that there had been widespread repression; and that there had been no protection of minorities. She could only join her colleagues in wishing all the peoples of Iraq a better prospect for enjoyment of their human rights during the period ahead.

55. Mr. HERNDL said he firmly supported all the previous speakers. There had certainly been no real dialogue between the Committee and the Iraqi delegation, although the presence of the latter had been a matter of some satisfaction. "Stonewalling" was the term he himself would use to describe the Iraqi response to the legitimate concerns and carefully worded inquiries of the Committee.

56. Serious doubts remained as to the true extent to which elementary human rights were protected in Iraq. So many questions had been left unanswered and so many events were known to have occurred during the reporting period that the least the Committee could do was to express the deepest regret that the situation had not been improving.

57. At the outset of the present encounter, the head of the Iraqi delegation had stated that all citizens enjoyed complete freedom of expression; but how was that compatible with Decree of the Revolutionary Command Council No. 840, which had been promulgated in 1986, after the second periodic report, and which clearly stated that it was a capital offence deliberately to slander or insult the Revolutionary Command Council, the Arab Baath Party, the National Assembly or the Government? That was just one typical example of the contradictions that persisted.

58. His conclusion was that, despite the nicety of its legal drafting, the third periodic report of Iraq did not conform to the provisions of article 40 of the Covenant. It failed to describe adequately, or sometimes altogether avoided describing, the measures taken by the Government to give effect to the rights recognized therein. Half of it was devoted to the actions of other States. An attempt was also made to justify certain draconian measures taken by the Government to deal with a situation that it had brought upon itself. Further shortcomings were, first, the report's failure to deal with developments since 1986; it focused rather on recent events with which everyone was familiar; and, second, the fact that it failed absolutely to address events in Kuwait: after 2 August 1990, however its intervention might be described, the Government of Iraq had without the slightest doubt been responsible under international law for Kuwait, including the observance of human rights there. It was a matter of particular concern to the Committee that nothing whatever was reported on that count in the document before it.

59. Mr. EL SHAFEI remarked that the remaining sections of the list of issues contained many outstanding questions which had not yet been taken up: they addressed, inter alia, such very important issues as the right to a fair trial, the state of emergency, the right to participate in the conduct of public affairs, freedom of expression, and, more generally, the constitutional and legal framework within which the Covenant was implemented. Obviously, at least one further meeting was essential to complete the consideration of all those matters.

60. After referring to the conditions prevailing in Iraq at the time when the Committee had taken its decision to call for the third periodic report without further delay, and to seek information concerning the implementation of specific articles of the Covenant, he joined earlier speakers in commenting on the inadequacy of the response to the questions put. It had been a matter of particular concern to him to hear so many references to "riots", a term which, especially in the Arabic language, to his mind did not at all describe the actual events. Nothing had been said about their causes; no information was given about the instigators, who must certainly have been very numerous since they appeared to have been able to hold entire towns for a period of weeks.

61. Freedom of expression was a fundamental human right and yet it appeared not to be protected in Iraq, but rather to have been suppressed.

62. Statements had been heard about constitutional reforms to come, and much had been made of the dissolution of the Revolutionary Court. But that body had functioned for more than 20 years: how many thousands of people had been executed at its bidding; what had happened to all those who had been thrown into prison; where was the compensation for innocent victims?

63. Obviously, a great deal remained to be done to ensure the full implementation of the Covenant in Iraq.

64. Mr. MYULLERSON said that he, too, was dissatisfied by the exchange, which had produced responses that diverged to a considerable extent from the realities. It had up to now been his experience that all States - even the most democratic - admitted during their dialogue with the Committee that human rights were to some extent violated in their territory. Yet the Iraqi delegation had denied any such departure from international standards; worse, it had attempted to lay all the blame for the situation on a state of war that was not only of its own making, but which, if anything, should have sharpened its concern for the protection of human rights.

65. Most of the Committee's questions had been avoided or had received dubious replies. It was distressing, for example, to hear that torture was prohibited when there was evidence from the most reliable sources, including the United Nations, that it had indeed been practised, and that acts of maltreatment had still not ended.

66. There was also a disquieting contradiction between the eloquent statement by the head of the Iraqi delegation to the effect that the rights of the Kurds were better protected in Iraq than in other countries where they lived, and the account of the manner in which the Kurds were granted those rights. If rights truly existed, then they did not need to be accorded.

67. During the encounter, many things that were disagreeable to hear had been said by members of the Committee. He urged the members of the Iraqi delegation to bear in mind - displeased though they might be - that, beside being representatives of their Government, they were first and foremost citizens of their country, human beings whose rights were protected like those of everybody else by the International Covenant on Civil and Political Rights. The Committee's criticisms had but one aim: the safeguarding of the rights and freedoms of all Iraqis, be they Muslims, Christians, Arabs, Kurds, Sunnites, Shiites or anyone else.

68. Miss CHANET joined in the general expressions of disappointment at the absence of satisfactory replies by the Iraqi delegation to specific, relevant and substantiated questions, including her own.

69. Unresolved issues that remained uppermost in her mind were: the alleged execution of minors (denied en bloc by the delegation without any examination of the evidence); alleged acts of torture in Kuwait; the reported destruction of religious buildings in parts of the country largely inhabited by Shiites; summary executions; disappearances; and discrimination against minorities.

70. Like Mr. Aguilar Urbina, she greatly regretted that an opportunity for dialogue had been lost; to her mind, that outcome would certainly not serve

the best interests of the Iraqi delegation in the eyes of the international community, of the Iraqi people, and of all who cared about human rights. On the contrary, the delegation's clumsy avoidance of dialogue could be seen as an indirect admission of failure. She could only hope that its attitude would have changed by the time that consideration of the report was resumed.

71. Mr. WENNERGREN noted that the head of the Iraqi delegation had called for an objective and scientific dialogue. No one could contest the desirability of that; but the dialogue should also be informative and of constructive use to the Committee and the State party alike. In the present instance, such qualities had been conspicuous by their absence. Earlier speakers had voiced many of his own concerns in that regard, and he would dwell on just two issues which exemplified for him the complexity of the situation.

72. In the first place, concerning the assertion by the Iraqi delegation that a report existed to prove that Iraq had not used chemical weapons in the Kurdish city of Halabja during the final stages of the Iran-Iraq war in March 1988, he said that he had asked for, and received the document in question. It consisted, in fact, of an article from the Washington Post, dated 3 May 1990, alluding to a reconstruction by the United States Defense Department of the final stages of that war. According to the article, the attack on Halabja had been described as a vindictive chemical strike ordered from Baghdad because of Kurdish assistance to Iranian forces; the Defense Department study had concluded, however, that both armies had fired chemical artillery shells, but that Iran might have been the first to do so, in the mistaken belief that Iraqi forces were occupying the city. There was no way of determining which side had caused the greatest number of casualties, but many of the victims had died of cyanide poisoning, and the Defense Department knew that Iraq did not use cyanide gas. He wished that clarification to be inserted in the summary record as an illustration of the need to proceed with great care in exchanges of the kind that had just taken place between the Committee and a State party, in order to illuminate, to the extent possible, all different shades of the truth.

73. With the same objective in mind, he had heard with some disbelief the statement that, during the so-called riots, large groups had entered Iraq from abroad, armed with all kinds of sophisticated and dangerous weapons. For his part, he certainly did not rule out the possibility that weapons and even advisers had been smuggled into the country from outside; but from all the evidence it appeared that the disturbances had been on such a scale that they could only have been the result of an a large-scale upheaval within the country. That was another instance where a more nuanced picture would appear to be closer to the truth.

74. Mr. DIMITRIJEVIC added his own expression of disappointment concerning the almost surrealist atmosphere that had prevailed during the encounter: a report focusing on the most recent events in Iraq had been submitted, yet the Committee's questions about those events had been dismissed as irrelevant.

75. To his mind, a mutual lack of trust between the Committee and the representatives of the State party had been largely to blame for that state of affairs. But, worse still, it seemed to him that a similar lack of trust persisted in Iraq itself between various groups of the population and between

the population and the Government. That was very apparent, for example, in the matter of amnesties: there were reports that people who had returned to the country believing that they would benefit from such measures had been punished instead.

76. Looking ahead, he could only hope that when the Committee and the State party met again to resume the consideration of the report, the situation would have changed, that trust - where it had been lacking - would be in the process of restoration and that the Committee would not be perceived by the delegation as a potential adversary. Lastly, and in relation to what had been said about the Kurds, he would offer, not merely to Iraq but to all Governments, the general advice that it was no excuse to claim that matters or situations were worse elsewhere. Universal standards, and not conditions in some other country, were the yardstick by which to measure respect for human rights.

77. Mr. SADI said that, despite the shortcomings in the report and in the statements by the Iraqi delegation, he was grateful to its members for their decision to appear before the Committee. The central issue for him was the emergence without delay of a parliamentary system in Iraq. Without democracy and pluralism, the Committee would be quite unable to address the detailed issues of human rights properly.

78. The CHAIRMAN said that he retained from the meetings the essential conclusion that for different reasons the Iraqi delegation had been unable to reply, or to reply in full, to a great many of the Committee's inquiries. That inability had been of no service to the dialogue which the Iraqi representatives themselves had called for, still less to the scientific approach which they had advocated. There could be no science without facts; and the Committee could not come to any judgement in the absence of information, or when offered negations rather than clarifications.

79. Recalling that the competence of the Committee had been challenged by the Iraqi delegation, he expressed the hope that the Government would reconsider its position in that respect. Notwithstanding the fact that other instruments might impose obligations within the same context, the Committee had its own mandate which should be properly acknowledged, concerning the implementation of the Covenant: only through an appropriate change of attitude by the State party could a more fruitful exchange take place.

80. Mr. MAHMOOD (Iraq) reaffirmed his delegation's desire to cooperate as fully as possible with the Committee. It certainly did not consider the Committee's monitoring of the application of the Covenant to constitute interference in the internal affairs of the country and it welcomed the opportunity for cooperative dialogue which, it hoped, would be pursued in the future.

81. That being said, he wished to make a final response to some of the issues stressed by members of the Committee. In the first place, he found it hard to accept the criticism that inadequate replies had been given to the questions concerning protection of the right to life; he would suggest that the third periodic report and its predecessors, and the replies provided orally in meetings with the Committee, showed that the subject had in fact been addressed at length. He wished to reiterate, however, that if the delegation had not

addressed the matter as it related to Kuwait, that was because Iraq considered the subject to be covered by the deliberations and resolutions of the Security Council, which it had accepted and applied; indeed, he believed that to have entered into a discussion of the situation in Kuwait in the present forum could have run counter to mechanisms set in motion by the Security Council, with which, to repeat, Iraq was in full compliance.

82. Much had been said about the disturbances referred to in the report, and in that connection some Committee members had believed them to be the manifestation of a so-called "opposition". He would submit, however, that for opposition to exist and to be properly acknowledged as such, it must be both constitutional and lawful: what had been referred to were armed aggression and threats to life and dignity of others. The participants in the disturbances had destroyed public buildings and property; they had committed brutal acts of murder and engaged in sexual exactions. He submitted that such events could not be described as the justifiable expression of opposition or as a popular uprising. Crimes had been committed and the State had assumed its responsibility by intervening to protect its citizens; indeed, failure to do so would have constituted failure to respect the Covenant by not protecting the rights of those who were placed at risk, and in danger of being killed or mutilated.

83. It had also been claimed that there had been no proper reply on the question of torture. But the report indicated, and he himself had reiterated, that penalties had been imposed in that connection. He would invite members of the Committee to examine the relevant judgements, and to ask themselves whether what happened in Iraq did not, in fact, happen in other countries, developed and developing alike.

84. Concerning the incidents in the frontier village called Halabja, and the information that chemical weapons had been used there by Iraq, he once again refuted that accusation, which was all the more absurd because at the time in question the Iraqi army had itself been based in the area under attack. The blame for what had happened must lie firmly with Iran, which had subsequently occupied the area, and which had persisted in such criminal activities until the eve of the cease-fire.

85. That rebuttal led him to the more general point that it was difficult to respond to allegations based on facts that were quite simply untrue. As one small example from personal experience, he had found himself in areas which radio stations were claiming to have been "liberated by insurgents", when it was obvious that nothing of the sort had happened. In circumstances such as those, how could there be a reasoned dialogue? Thanking the Chairman and members of the Committee, he wished them every success in the pursuit of their task.

86. The CHAIRMAN thanked the Iraqi delegation on behalf of the members of the Committee and said that the first part of the Committee's consideration of the third periodic report of Iraq was concluded.

The meeting rose at 6.30 p.m.